

**DEPARTMENT OF STATE REVENUE**

**LETTER OF FINDINGS NUMBER: 98-0275P**

**Sales and Use Tax  
Calendar Years 1994, 1995, and 1996**

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**ISSUE(S)**

I. **Tax Administration** – Penalty

**Authority:** IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

**STATEMENT OF FACTS**

Taxpayer protests the penalty assessed on an audit completed on April 03, 1998.

Taxpayer failed to self assess use tax on clearly taxable items in all years of the audit and failed to remit sales tax collected for November 1994.

1. **Tax Administration** – Penalty

**DISCUSSION**

Taxpayer's audit report revealed that taxpayer failed to remit sales tax collected for November 1994 and failed to accrue and remit use tax for items removed from inventory for use in their office and warehouse and assets purchases.

Taxpayer states it made a good faith effort to comply with the sales and use tax regulations issued by the state of Indiana and maintained a very accurate system for collecting and remitting sales and use taxes as demonstrated by their current and prior compliance history. Taxpayer, as the auditor detailed, was unable to provide the use tax accrual work papers to document the use tax accrued on these items. The assessment was generated largely due to documentation which could not be located in the archives during the audit process and document issues are bound to occur in the normal course of business and

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does not represent negligence on the part of the taxpayer. Taxpayer, therefore, requests abatement of the penalties.

Taxpayer had a prior audit completed on October 18, 1993 with similar issues with an amount due of \$563.88 for three years. The current audit is for a total tax of \$8,434.06 for three years.

Although the taxpayer argues that the remaining assessment of \$6,719 represented use tax errors for which it was unable to provide the use tax accrual work papers, the amount of use tax paid for all three years of the audit was only \$1,722.73.

### **FINDING**

Taxpayer's protest is denied.